

# 25+ electoral models

## III. Electoral bodies



Centrul de Resurse  
pentru Democrație

al Asociației  
Pro Democrația

# 2012

## electoral models

### III. Electoral bodies

The following have contributed to this paper:

**Coordinators:**

Adrian Sorescu  
Todor Arpad

**Contributors:**

Costel Popa

**DTP:**

Constantin Mârza

Copyright  
©Asociația Pro Democrația

Published: Bucharest, 2006.



CRD - Asociația Pro Democrația  
Bd. Mareșal Averescu nr. 17  
Pavilion F, 3rd floor  
District 1, Bucharest, code 011 454  
Tel.: (+4021) 222 82 45  
Fax: (+4021) 222 82 54  
Mobile: (+4) 0723 152 493; 0744 688 163  
E-mail: [apd@apd.ro](mailto:apd@apd.ro)  
Web: [www.apd.ro](http://www.apd.ro)

# Table of contents

Foreword	5
The electoral bodies as part of the democratic infrastructure	7
Dimensions of the analysis of the electoral bodies	9
The composition and the independency of the electoral bodies	10
Appointing the leadership of the central electoral bodies	11
Ways of taking decisions within the central electoral bodies	12
The institutional construction and the permanent status of the electoral bodies	12
The legal framework of defining the role and powers of an electoral body	12
Principles of electoral bodies' functioning	13
Relations between the electoral bodies and the other actors involved in elections	15
The evaluation of the performance and the electoral bodies' accountability	15
The elections' costs	16
The election process reform	16
Responsibilities of the election bodies in preparing the electoral process	17
Voter registration	17
Managing voter lists	17
The adoption of the legal procedures for preventing frauds	18
Drawing the constituencies and establishing the number of mandates	18
Political party financing control	18
Solving litigations by involving the juridical system in decisions	19
Voter education programs	20
<b>The responsibilities in organizing the voting process</b>	<b>21</b>
The territorial dimension of organizing the electoral bodies' activity	21
The communication structure	22
The development of a professional staff and its training	22
Functions that might be externalized	23
Case studies on regulations regarding the electoral bodies	25
Austria	25
France	25
United Kingdom	25
Latvia	26
Poland	26
Central electoral bodies in EU member countries	27
Bibliography	32



# Foreword

Between the “popular democracy” promoted by the communist regime and “the triumph of the liberal democracy” announced by Francis Fukuyama after the “iron curtain’s” fall, we could notice a long distance as well as a difficult road that hasn’t confirmed the famous analyst’s optimism. At least us – the Romanians – have experimented the “original democracy” of Iliescu regime – a model that is not that original if we look to the political situation of the former Soviet Union countries. However the acceptance of the Western democracies as a bench mark in building the political system of the countries in transition is an achievement although the adoption of the model hasn’t meant putting it into practice.

In this regard, the legislative and institutional framework regarding the organizing of the elections become an essential component for putting into practice the principles and standards of an authentic democracy and assuring the independency and professionalism of those who manage the process – the electoral bodies – play a key role in guarantying the respecting of the democratic “game’s” rules.

By continuing its efforts towards the consolidation of the democracy in Romania, Asociatia Pro Democratia has involved actively into the process of the electoral reform and has promoted few principles based on which its campaign has been developed: assuring the fairness of the elections, assuring independent and professional electoral bodies, assuring the transparency of the political party financing as well as strengthening the relations between the voters and their elected representatives by introducing the single member constituency vote.

The cycle of studies “25+2 Electoral Models” edited by the Resource Center for Democracy of Asociatia Pro Democratia that includes information, data and analysis on all aspects related to the electoral process in all 27 countries that are members of the European Union (since it was initiated before January 1, 2007, we

choose to keep the title) has the role of filling a gap on the market of specialized studies in Europe but it also represents a theoretic support for the MPs and the specialists involved in the electoral reform process in Romania. Each number of this cycle has been dedicated to one of the main aspects that characterize the electoral process:

1. Electoral systems
2. The actors of the electoral process – those who vote and those who get voted
3. Electoral bodies
4. Election campaign
5. Political party and election campaign financing
6. Voting day – vote counting and establishing results procedures

By the editing of the third issue – Electoral Bodies – we aimed to present the way in which the institutions and authorities involved in the organizing of the electoral process in all 27 EU countries are regulated and work. The present study is divided on the following dimensions of analyzing the electoral bodies:

- the organizing of the electoral institutions and authorities;
- the electoral bodies’ relations with the other actors involved in elections;
- responsibilities of the electoral bodies in preparing the electoral process;
- the structure of the responsibilities related to the organizing of the voting process;
- case studies on legal regulations regarding electoral bodies.

In addition to these, the study includes a chapter in which the central electoral bodies of the EU countries are synthetically presented: who appoints the electoral body’s members, the way of its constituting and its mandate’s duration.



# The electoral bodies as part of the democratic infrastructure

The electoral bodies are an essential component of the democratic institutional infrastructure. Through their correct functioning the electoral bodies bring an essential contribution to the fulfillment of the first criteria any democracy has to meet: free and fair elections. As fundamental institutions of any democracy, the electoral bodies guarantee that the “rule of the game” is respected. Beyond the institutional aspects, the political legitimacy assured by free and fair elections is essential for the efficient functioning of the state and offers to the elected representatives a clear mandate in the direction of promoting the accountability, legitimacy as well as the sustainable democracy.

A study that included 148 countries and was done in 2000 shows that in 53% of the countries the elections were organized by independent electoral bodies, in 27% of them the elections were organized by the administrative body of the state but under the supervision of some independent electoral body (such as the case of UK is) while in 20% of those countries the election were organized exclusively by the Executive.

In EU, the independency of the electoral bodies depends of the oldness of the democracy in every specific country. In those countries having a consolidated democracy elections are organized almost exclusively by the state institutions with or without the political parties' supervision. If many most

of the EU countries having a long democratic tradition organizing elections has been a routine of the local and central government (the Minister of Internal Affairs being usually the institution in charge), the recommendations of some independent bodies as the Venice Commission (functioning under the authority of the Council of Europe) to the countries that are either in the process of democratization or recently democratized refer to the necessity of as large as possible independency of the electoral bodies.

The special importance of the electoral bodies has been relieved also by attention given to their development in those countries being in transition to democracy. The creation of the institutional framework that assures elections that meet the standards of EU has been a difficult task, in many countries the achievement of that goal needing more election cycles. In those young democracies, the existence of some independent electoral bodies represents one of the most important institutional guaranties for the limitation of the possibilities of those political forces in power to fraud elections. Actually, most of the studies on the electoral bodies have been focused on the countries of the third wave of transition to democracy. For instance a study on the organizing presidential elections in South and Central America during the latest 30 years relieves a strong correlation between the level of independency of the electoral bodies and the quality of the elections.

---

1 Rafael Lopez-Pintor, *Electoral Management Bodies as Institutions of Governance*. (Bureau for Development Policy United Nations Development Program, New York, 2000), 121

2 Aspect theorized by Samuel Huntington, *The Third Wave: Democratization in the Twentieth Century*. (Norman: University of Oklahoma Press, 1991).

3 Jonathan Hartlyn, Jennifer McCoy, Thomas J. Mustillo, “The ‘Quality of Elections’ in Contemporary Latin America: Issues in Measurement and Explanation” (material presented at the XXIV International Congress of the Association of Latin-American Studies, Dallas, Texas, 2003).





# Dimensions of the analysis of the electoral bodies

The specialized literature uses terms such as electoral bodies, electoral committees, electoral authorities and electoral management bodies when it refers to the total of the bodies playing any role in organizing elections.

While terms of electoral committees, electoral authorities and electoral management authorities refers to all bodies functioning at the central level and having legal attributions in terms of organizing elections during the whole election cycle, the term of electoral bodies includes the institutions acting at regional and at local level. The “electoral bodies” will be used ahead for texts referring to all levels of organization and the “central electoral bodies” when it refers only to the central level. In addition, the term of “Central Electoral Commission” will be used only for defining that central institution functioning only during the election period.

Depending on the typology of organizing elections, the way the central electoral body and the Central Electoral Commission co-exist, can belong to one out of the following two models:

- the Central Electoral Commission is an extension of the central electoral body being based on the structure of that body (usually, the President of the Body is the President of the Central Electoral Commission);
- the Central Electoral Commission is separate from the central electoral body that is only represented within the Commission.

There are five dimensions that can be used for describing those bodies:

- independent vs. controlled by the Govern;
- formed by politically independent members vs. formed by members appointed based on political criteria (by political parties/alliances represented in the Parliament, for instance);
- permanent vs. temporary;
- functioning only at the central level vs. functioning as national structures being represented at various levels;

- depending on the degree of the externalizing of the activities: bodies organizing all the activities vs. bodies externalizing all the operation and keeping only the supervising function.

In practice, none of those dimensions is dichotomist, but can be figured as a continue line along which various institutional models can be placed. In most of the cases, the placement of the electoral bodies on each of those dimensions has been strictly legally regulated.

There are also four phases of every election cycle, phases during which the electoral bodies have to accomplish different tasks. The four phases are:

- the period of time between elections: it lasts from the moment when the results of some elections are officially announced until the moment of the announcement referring to the organizing of the next elections;
- the election campaign;
- the voting day, between the moment when the members of the polling station bureaus gather together at the polling stations and the moment of the closing of the voting process;
- the period of the vote counting, establishing the results and finalizing the legal operations for recognizing the election results.

Different countries have generated different institutional configurations for regulating the four phases of the election cycle<sup>4</sup>. For instance, different institutions may play roles in regulating different phases. In Romania, during the period of time between elections, the main authority in charge is the Permanent Electoral Authority (PEA). The main attributions of that body consist of proposing legislative changes aiming to incorporate the experience that has been accumulated into the legal framework as well as of developing voter education programs. At the beginning of the second phase the Central Electoral Bureau is formed (CEB). PEA is represented in CEB by its President and the two Vice-presidents but without having a central role in it. So, although apparently there

---

4 Robert Dahl, *The Polyarchies*, (The European Institutule, Iași, 2000).

is an institutional continuity, since CEB is the extended formula of PEA, practically the two institutions are separated excepting three members they have in common (the PEA's representatives).

## 1. The composition and the independency of the electoral bodies

The electoral bodies' independency has to be analyzed on two separate dimensions, since analyzing them simultaneously can generate some confusion. First of all, the institutional independency of the electoral bodies refers to the degree of the influence of the political forces in power on the law regulating those institutions, the way of appointing their members and their decisional capacity. The evaluation of the degree of the independency and neutrality of the electoral bodies can be done taking into account their membership and especially the way of appointing those members as well as the capacity of acting independently. Generally, there is a mixture between public servants, Govern's representatives, representatives of the juridical power (especially judges) and political parties' representatives. Since in most of the cases an important part of the body is formed by persons proposed by political parties and other centers of political power, the independency doesn't necessarily mean the separation from the political area but assuring a balance between various political forces.

The second dimension refers to the independency of the electoral bodies involved in the managing of the electoral process in front of the political actors. Taking into account that the countries characterized by a sustainable democracy have administration systems well protected from the political direct and indirect interference, the fact that the direct management of all operations belongs to the public servants with our without the supervision of the political factor, can guarantee free and fair elections. On the other hand "independent" electoral bodies depending on an administrative system which is strongly politicized can not guarantee free and fair elections.

The Venice Commission has created many documents including recommendations on assuring a good quality of elections. In terms of the electoral bodies the *Code regarding good practices in organizing elections*<sup>5</sup> underlines the necessity of elections being organized by an impartial body.

### Electoral bodies overlapping the government

When the elections are organized by the Ministry of the Interior or by other components of the Govern, they are practically managed by the public servants of those governmental bodies. The main aspect that makes the

difference among the countries that have adopted that model consists of the fact that in some cases the head of the electoral body is even the head of the institution (the Minister in the case of the Ministry of the Interior) while in other cases either a Vice-minister or a high public servant is appointed as the chief of that body.

Organizing free and fair elections in such context is fundamentally dependent on the level of professionalism and independency of the public servants. In those countries having a long democratic tradition where the activity of the public servants is strictly regulated by special laws so they are protected from either direct or indirect political interference, the state can assure a free and fair electoral process.

According to the Code regarding good practices in organizing elections of Venice Commission, in those countries where the administrative bodies have got a long tradition of independency from the political authorities which means that the public servants can put the election laws into practice without being under any political pressure, it is acceptable and normal that the elections are organized under the supervision of the Ministry of the Interior. On the other hand, in those countries where the democracy has got a short period of emergency and the institutional practices are not depoliticized there is a high risk that the political force in power influences the administrative body at both central and local level. Thus the creation of independent and neutral bodies that can have not only the legal ability but also the organizational and financial capacity of managing elections at all levels as well as the capacity of adopting measures for removing the errors and sources of suspicions is needed.

So, although most of the old members of EU are now in contradiction with the recommendations met in the specialized literature that refers to the necessity of the creation of independent bodies for organizing and managing elections, the level of the fairness of the elections in those countries is one of the highest. The lack of important scandals regarding electoral fraud during the last decades justify the opinion of those who have questions regarding the necessity of independent election bodies in those countries where democracy is very performing. In addition, in those countries the fact that the elections are organized by state bodies covers the necessity of a permanent management system having a high level of stability and professionalism.

### Independent electoral bodies

Generally, the discussion within the specialized literature on the degree of independency has been focused on the law regulating the electoral bodies' functioning, the way of appointing members in those bodies and the decisional capacity.

Due to the importance of the elections in a democracy, the electoral bodies have been created based on some organic laws. A law including very strict regulations

<sup>5</sup> The Code can be accessed <http://www.coe.int/T/E/Com/Files/Themes/Elections/code.ASP>

regarding the attributions and responsibilities of the electoral bodies can assure an efficient protection from the external influences but in the same time it can determine certain inflexibility. The lack of flexibility combined with the strict regulations of the relations with other institutions may limit the electoral bodies' capacity of getting the most efficient solutions. Especially when some activities belong strictly to the area of other state institutions' responsibility (such as voter registration, creating and maintaining voter lists) solving the syncope can be done only through co-operation and the co-operation can not be strictly regulated within the law. In that case it is recommended that those operations are done in a transparent way under the monitoring of the electoral management bodies. However, when the lack of experience in organizing elections leads often to unpredicted situations, independent electoral bodies take the action generally faster and in a decisive way in terms of technical decisions regarding the good way of developing the election process.

In practice, in those countries where independent electoral bodies formally exist an important set of technical tasks are executed by other public institutions. This is determined by the fact that generally the administrative body that has to implement the needed measures for organizing elections is the one belonging to the central and local public administration. The main reason of that is the high cost that would be necessary for the creation of an administrative body totally separated from the existing one. In the same time, excepting the countries of the "3rd World" the local and central public administration is enough performing to be able to accomplish successfully the technical tasks related to the organizing the elections. On the other hand, since when the government is directly involved in organizing elections the issue of neutrality might be raised the important decisions must belong to an independent body or to an institution characterized by a good balance between various political actors.

In long tradition democracies where electoral committees outside the Executive or the Minister of the Interior don't exist it's needed that the political parties' representatives may monitor the activity of the administrative body in charge of organizing elections.

## 2. Appointing the leadership of the central electoral bodies

One of the most important aspects is the way of appointing the members of the leadership of the electoral bodies. The Code regarding good practices in organizing elections of the Venice Commission includes a series of recommendations regarding the structure of the central electoral body as follows:

- judges and jurists – persons working within the juridical system might not be under the authority

of other persons appointed on political criteria;

- representatives of political parties that are represented in Parliament or got a certain minimum percentage of votes in the previous elections. The political parties should be equally represented in the Central Electoral Authority (this can be understood either in a strict way or in a relative way - depending on the representation in the Parliament). It is very important that the political parties' representatives have education related to the electoral law and practice.

Assuring the institution's independency through the presence of more political actors in its structure has got not only advantages but also disadvantages. Stressing the partisanship may lead to the politicizing of the activity of those institutions, increasing of the costs and of the time needed for negotiating various decisions, repetitive institutional blockages and the decrease of the body's credibility. In the same time, an excessive influence of the political parties' representatives may lead to measures not in favor of the voters or other actors of the election process. Especially those details related to the political party financing can generate decision that could exceed the legal framework.

Even in the context of having a formal independency of the electoral bodies the political parties in power can be advantaged through the way of selecting the leadership. For instance, if most of the members are appointed by the Govern, President and political parties' representatives, 50% of members proposed by the same center of power can be very easily obtained. Thus, mentioning some incompatibilities even for those persons being members of political parties is needed. The main source of conflicts can result from the participation of some candidates to the electoral bodies.

The central electoral body should also include:

- national minorities' representatives, especially when those minorities are concentrated in certain geographical areas;
- representatives of the Ministry of the Interior.

However, depending on the historic specific of every country it's not always desirable that the Ministry of the Interior is represented in the central electoral body. This assertion is based on a remark of some international observers who noticed a transfer of authority from the body's members to the government's representatives in some cases. It is still to be mentioned that a high level of co-operation between the electoral body and the Ministry of the Interior is strictly needed.

In order to limit the possibility of putting pressure on the members of the local and central electoral bodies it's necessary that those members can not be revoked by those institutions that appointed them without serious reasons. Those reasons have to be very clearly regulated but not mentioned in the law as general or

ambiguous considerations that allows place for abuses.

Finally, a possible solution that can be taken into account could consist of the appointment of the leadership of the electoral bodies by the Parliament but using a method that offers to the ruling majority and to the opposition in Parliament the possibility of appointing the same number of members regardless the percentage each of the two sides have got.

### **3. Ways of taking decisions within the central electoral bodies**

Beyond the composition of the central electoral body the way of operating and adopting decisions is essential for the quality of the elections. The rule of procedures of that body has to be clear so the leadership of the body will offer to all members the possibility to express their opinions. On the other hand, because this possibility could be used by some of them in order to block the decisional act at the body's level, the rule of procedure should refer also to a limited time allocated to every member's interventions.

Since there are many ways of adopting decisions, those ways have to be very clearly regulated. Generally, a qualified majority (2/3) is recommended in order to encourage the debate between the majority and the minority.

The sessions should be public inclusively for mass media.

### **4. The institutional construction and the permanent status of the electoral bodies<sup>6</sup>**

Overcoming the difficulties related to the institutional construction and assuring the functionality of the central electoral bodies depends not only on the characteristics of the activity but also on the larger framework in which those bodies function.

The institutional construction of the electoral bodies has to exceed the solving of the day-to-day issues related to the ongoing elections. The permanent status is one of the most important characteristics that assure a good functionality. Creating new electoral management body at the beginning of every election cycle means that a large part of the membership will be different every time. In the same time, due to the fact that the specialists are usually recruited from existing institutions, generally there are few ways of stimulating them so the best of them can be attracted taking into account both the remuneration and the temporary status of the job.

The existence of a stabile core of experts has to be

guaranteed not only at the central level but also at various levels of the organizing system. This way, the capacity of planning and improving the operations as well as the cost efficiency can be increased. Moreover, the personnel of the electoral bodies need to have the status of public servants in order to improve the stability of those positions.

The professionalism of the members of the electoral bodies can increase the quality of the electoral process and the level of the voters' trust in it and their respect regarding the adopted decisions. One of the oldest electoral commissions – the Indian one - has accumulated a high volume of experience which offers to it the possibility to reply fast and in an efficient way to any challenge generated by organizing elections in such a large and heterogenic country.

In present there is a strong opinion support in favor of the permanent electoral bodies. The experience accumulated during every election cycle will be added to the existing one and used in a larger manner when such permanent bodies exist. In the same time, the premises for building a core of professional specialists on various sub-domains are created. However it has to be taken into account that the permanency in its formal way can be empty of substance in cases of a high rate of changing of the personnel. Especially changing the leadership of those bodies very often is the one that can stop the institutional credibility.

### **5. The legal framework of defining the role and powers of an electoral body**

Due to the fact that most of the electoral bodies have to implement important measures having the potential of influencing the results of the elections significantly, the main objective of the legal framework should be to guide the activity of those bodies, to limit the abuses and to facilitate the organizing and managing of free and fair elections. The success of the elections depends highly on an electoral code that is adequate to the existent legal framework as well as adapted to the social and institutional reality of the country.

Assuring the stability of those regulations by adopting them in Parliament, by consulting other institutions and groups of experts either academic ones or from civil society during the parliamentary debates and as well as by including them in the category of organic laws can contribute to the building of a democratic tradition and to the creation of a framework of trust between the actors of the election process.

Neither the independency nor the permanency can confer credibility to the electoral bodies automatically. But the lack of credibility of those bodies is usually transferred automatically to those who are elected at the end of an electoral process. One of the most usual cases is that the electoral bodies are formally

6 Adapted from the ACE Encyclopedia that can be accessed at <http://aceproject.org/ace-en/topics/em/ema>



independent, but they are not credible as neutral actors.

The increase of the number of “non-liberal”<sup>7</sup> democratic countries raises questions regarding the concept of the quality of democracy. Those countries that are usually scored with “2” on a 1 to 7 scale used by Freedom House in assessing the political rights and civil liberties raise a series of conceptual issues in terms of understanding the way of functioning of the electoral bodies. If in general, from the formal point of view, the electoral bodies meet the minimum standards needed for being capable to organize free and fair elections, the practices make possible the infringement of the rule “when it's needed”. For instance, among all former Soviet Union countries, only the three Baltic ones are accepted as being truly democratic, in the western understanding of the term, the other ones still being considered “facade democracies”. Although formally the electoral bodies of those countries respect the recommendations of the Venice Commission, the implementation of some of them such as the involvement of judges in those bodies doesn't bring any independency or professionalism.

Although the Govern doesn't control directly the appointment of the members and the activity of the electoral body, the Govern can control de facto that activity by blocking the implementation of any decision. A truly independent electoral body is that one that works in the absence of any governmental control inclusively in terms of the financial decisions and administrative functions.

There is a set of methods for avoiding the risk of that such as:

- the appointment of the members of the electoral bodies done not by only one institution but by more. This is a rule adopted, for instance, by most of the former communist countries that are now EU members;
- appointing some of the members coming from the juridical system. However, it has to be taken into account that the level of people's trust in the juridical system as in any other public institutions is different from country to country;
- the implementation of some mechanisms that will assure a good balance between political parties in power and the opposition in case most of the members are appointed by the Parliament. Moreover the regulations should refer to the way of electing the President, the Vice-president(s) and the secretary of the Electoral Body since those positions offer (by their nature) a quite high capacity of influencing the activity of the institution;

- appointing a higher number of persons who are politically neutral.

In the most existing comprehensive study on electoral bodies (including 148 countries)<sup>8</sup>, Rafael Lopez-Pintor underlines that the independent electoral bodies have contributed significantly to the promotion of the democracy and state of law. At the international level, the independent electoral management bodies have been more performing at any indicator (including the cost effectiveness) than the ones directly controlled by the government. The importance of a good electoral management is relieved when the problems occurred during elections can affect the legitimacy of the elected representatives and generate tensions that can persist during the whole electoral cycle.

## 6. Principles of electoral bodies' functioning

According to the IDEA guide of procedures<sup>9</sup>, the electoral bodies should respect five fundamental ethic principles as follows:

(1) *showing respect for the law*. The success of any elections depends of the degree of the acceptance of their results by all the participants to them. If the electoral bodies don't put the law into practice in a correct and non-partisan way and don't have the capacity of explaining clearly the legal fundaments of their decisions, the legitimacy of the elections' results will be affected. So, every country's legal framework has to assure that every political party and candidate as well as any other participant to the election process is fairly treated by taking into consideration all the circumstances.

(2) *being non-partisan and politically neutral*. The participants to the election process have to rely on the fact that the personnel of the electoral bodies as well as every institution as a whole are not any political actor's partisan. This has to happen even when the membership of the electoral bodies include members appointed by various political forces. Thus all the personal relations that might by suspect for influencing the nonpartisanship of some of those members have to be transparently presented.

In addition, the members of the electoral bodies have to self-restrain from receiving gifts, from participating to electoral activities organized by certain competitors, from receiving advices regarding how they should fulfill their attributions, from expressing their political options, from communicating with voters on political issues and from wearing political symbols.

(3) *being transparent*. The success of the elections

<sup>7</sup> Larry Diamond, “Advancing Democratic Governance: A Global Perspective on the Status of Democracy and Directions for International Assistance”, 2001, <http://www.usaid.gov/fani/cover.htm>

<sup>8</sup> Lopez-Pintor, Rafael, Electoral Management Bodies as Institutions of Governance. (Bureau for Development Policy United Nations Development Program, New York, 2000): 121

<sup>9</sup> Insitute for Democracy and Electoral Assistance Code of Conduct. Ethical and Professional Administration of Elections. Accessed at [www.idea.int](http://www.idea.int)

depends also on the participants' availability to accept the electoral bodies' decisions without protesting to those unfavorable ones. This aspect depends on the understanding of the decision mechanisms that depends on the access to the information based on which the decisions are adopted. Since any election process generates an impressive volume of data and documents, offering copies of those documents to all those who ask for them doesn't represent a practical solution. In such cases, the existence of a clear code of access to information that assures a safe and fast access to the relevant information is needed and such a code has to be completed by the electoral bodies' capacity to explain fast and clearly all the decisions.

(4) *working accurately*. The achievement of the administrative tasks and the adopting decision process have to be based on information that meets the highest standard of accuracy, so the errors determined by unclear and inexact information are reduced as much as possible. This aspect is so important since

sanctioning the sources of wrong information post factum is very difficult if not impossible. The electoral bodies have to be sure that the information is collected, processed and published by using systematic, clear and unambiguous methods. In other words, they had to take any possible legal measures in order to be confident that the information that gets into the processing data system is based on reality.

(5) *organizing elections for the citizens' interest*. The staff involved in organizing elections have pay all their efforts in order to provide to every voter the highest possible quality services as well as the possibility to express his/her vote with minimum level of inconvenient aspects. In this regard, the electoral bodies have to initiate public information campaigns on all the aspects connected to the election process. In addition, they have to take into account the persons having special needs as well in organizing and managing the voting process.

# Relations between the electoral bodies and the other actors involved in elections

The electoral bodies have to plan their activities and the communication by taking into account that the total isolation is impossible. Due to the importance of the management of the relations with the other participants, the electoral bodies have to invest resources in learning about the audience's characteristics. In this regard, the presence of some specialists in communication in their staff may be very useful.

The institutional independency doesn't have to be understood as isolation to the other actors of the election process. The co-operation especially with the central public administration institutions and with political parties from equal positions contributes to the independency of functioning and to the capacity of the electoral bodies to be a guarantor of a fair voting process.

Transparency contributes to trust both for voters and for political parties. A climate of suspicions on the electoral bodies' activity may create obstacles and increase the costs. The institution might be obliged to justify any technical decision it adopts and to wait for the reaction of the other participants to elections which can determine delays in respecting the activity plan. Maintaining a good communication and a good capacity of explaining the decisions contribute to the maintaining of a climate of trust.

The strong effects produced by the electoral body's decision on the other actors may generate negative reactions lack of trust and attempts of putting the legitimacy in question. Especially the political parties are the ones tending to use accuses against the electoral bodies as election campaign instruments. The most recent and well known such case in Romania happened in 2004 when the candidate to the position of President of Romania – Traian Basescu – accused the Central Electoral Bureau and the National Institute of Statistics of a systematic fraud done by modifying the software used in the vote counting process at the national level. The accusation played an important role within the electoral campaign for the second round.

Although finally it was proved that the accusation was not justified the message that had been transmitted created a filling of lack of trust in Central Electoral Bureau's activity. That episode has very probably affected the credibility of any central electoral body in charge of organizing elections for some years.

## 1. The evaluation of the performance and the electoral bodies' accountability

As in the case of all institutions of public interest the electoral bodies' activity has to be periodically evaluated. The accountability those bodies have to show can be translated into the fact that they have to report periodically to the other actors of the electoral process the degree of the achievement of performing standards. Taking into account that the individual accountability can lead to a political interfering to the electoral bodies' activity, from the point of view of the nonpartisanship direct reporting to the Parliament is recommended. Due to the specificity of this activity, the selection of the evaluation indicators and standards is a delicate issue that has to be solved outside the electoral period.

Generally the use of pre-determined and clear evaluation criteria can have positive effects on the independency and credibility of the electoral body. The main evaluation mechanisms are<sup>10</sup>:

- institutional audits
- reporting to the Parliament
- internal controls of quality
- post-election checking of the decision adopted during the election period
- internal supervision

Beyond using some institutional criteria, the academic institutions have developed a series of criteria and indicators that can be used for the evaluation of an

---

<sup>10</sup> Adapting from ACE Encyclopedia, authors: Alan wall, Carl dundas, sara Staine, Joram Rukambe it can be accessed at <http://aceproject.org/ace-en/topics/em/emh>



electoral body especially when the evaluation regards that activity's impact on mass media and public opinion<sup>11</sup>:

- the level of the political parties' and voters' perception regarding the legitimacy and of the acceptance of the electoral body's activity;
- the perception regarding the electoral body's neutrality;
- the perception regarding the quality in terms of achieving the activities that are specific to an electoral body;
- the perception regarding the electoral body's transparency.

## 2. The elections' costs<sup>12</sup>

At the international level the average costs of elections can vary from USD 1 to USD 3 per voter. From the point of view of the elections' costs per voter and taking into account the average income the chipset elections are those ones organized by long democratic tradition countries. In post-conflict countries the real cost of elections is significantly higher than in other countries because of the participation of peace keeping forces in maintaining order.

Even though, apparently the existence of permanent election bodies seems to increase the costs, the real effect is opposite.

The adequate and just using of the available financial resources represent one of the central responsibilities of any electoral body. The existence of strict electoral rules regarding the way of spending funds although those rules can not anticipate all possible situations

that can occur has to be considered for the budgeting process. Although the mentioning of all the operational costs that occur during the election period is not possible, the careful planning can contribute to the maintaining of the expenses in acceptable limits and to the avoiding of obstacles determined by financial blockages.

## 3. The election process reform

Starting in the middle of 80s and especially after the communism's collapse a phenomenon of reforming the election process in terms of increasing the number of independent and permanent electoral bodies and introducing the new IT technology could have been noticed. In general, the electoral reforms are characteristic to those countries that have had a longer way of democratization but even in those long tradition democratic countries such reforms have taken place and they were determined by the tend of increasing the independency of the bodies in charge of organizing elections. In EU for instance, some the most important changes are:

- the increase of the degree of independency of the electoral administration in Sweden;
- the establishment of a permanent central electoral committee having especially supervising attributions in UK.

Although generally the election reforms have been initiated by governs under the pressure of the society and the international community the electoral bodies have become in time important actors contributing to the increase of pressure for reforming.

11 Jorfen Elklir și Andrew Reynolds, "A Framework for the Systematic Study of Election Quality", Democratization, (Vol.12, No.2, April 2005): 147–162.

12 Lopez-Pintor, Rafael, Electoral Management Bodies as Institutions of Governance. (Bureau for Development Policy United Nations Development Program, New York, 2000): 110

# Responsibilities of the election bodies in preparing the electoral process

In order to achieve their role as technical administrators of the electoral process, the election bodies have to be capable to accomplish their responsibilities in a credible way. Not only the technical aspects have to be managed in an efficient way but also the communication with the actors of the electoral process has to be managed in a transparent way. This is very needed especially if we acknowledge that the nature and the complexity of the procedures as well as the short time available for accomplishing the tasks ask for a very good coordination.

## 1. Voter registration<sup>13</sup>

By establishing rules regarding the voters' registration actually the eligibility criteria for electors are established. Although it's a process that consume financial resources, time and logistics if it is well done it plays an important role in conferring legitimacy to the elections' results. Voter registration operations are usually a responsibility of the public administration in co-operation with the institutions in charge of the census. In those countries where the election bodies are established as part of the government, the registration process is easily to be managed.

The voter registration process has to respect the democratic principles of assuring the access to political participation to all the voters and to promote the principle of inclusion. The differences occur when we talk about how large the election bodies' efforts to include those groups traditionally characterized by a low degree of inclusion and turnout should be. If in some countries, the election bodies adopt a pro-active policy in order to include such groups in the electoral process, in some other the election bodies prefer a passive attitude.

One of the most frequent issues is that one related to the presence of the people who died on the voter lists. This issue can be a source of fraud in election because it offers to those who want to fraud the possibility to vote in the name of those who died.

From the technical point of view, there are three options for organizing the voter registration process:

- the periodic lists. The lists are done depending on the specific electoral events without being permanently maintained and updated. The system is quite expensive because it needs a direct contact with all the eligible voters before every election process. It might be useful where there's no institutional infrastructure for maintaining the lists.
- the continuous voter registration. Voter lists are maintained and updated by the election bodies. Maintaining means permanent completing the lists by adding to them those persons who meet the eligibility criteria (especially those who get the needed age for becoming voters) to the lists. In those places where this responsibility doesn't belong to the institutions in charge of organizing the elections a good cooperation between those institutions and the institutions in charge of the people's record is needed.
- using the civil register. Generally a civil register contains information about all citizens in terms of their names, addresses, citizenship, age, personal identification number. The voter lists can be easily obtained by extracting from the civil register those persons who don't meet the legal conditions to vote. This system has been used largely in Europe and Latin America. The main question regarding this method of managing the voter lists is whether the institution in charge of keeping the civil register (the community public service for person data records of the Ministry of the Interior) should be in charge of creating and maintaining the voter lists. On the other hand, it has to be taken into account that transferring data from an institution to another might create problems in terms of the security of the personal data.

## 2. Managing voter lists

The activity of creating and maintaining the voter lists is characterized by some administrative aspects that can be met in all countries. Those aspects regard:

---

13 Adapted from ACE Encyclopedia, Keith Archer (can be accessed at <http://aceproject.org/ace-en/topics/vr>)

- the adaptation of the all operations to the existing legal framework as well as to the possible legislative modifications
- the logistic planning of the activities
- the creation of the operational infrastructure
- the selection of the personnel who will be involved in the process
- the data procurement
- the data registration
- the keeping data safely
- the creation of some preliminary lists
- the registration of the requests of updating those lists
- the registration of the needed modifications
- the creation of the final version of the lists
- the delivery of the voter lists to the polling stations

### 3. The adoption of the legal procedures for preventing frauds<sup>14</sup>

One of the main tasks of the electoral bodies is the prevention of the frauds that might affect the fairness of the election process in various moments. In this case, the electoral bodies' independency from the political actors is absolutely essential

From the point of view of their sources the frauds can be classified into two categories:

#### *Frauds produced by individuals*

- multiple voting. This is one of the most usual types of frauds and it's met usually when the voters are allowed to vote in any polling station but not in only one depending on their address. In the same time, the multiple vote is possible when a person votes by using other person's identity. Generally the prevention of this type of vote can be done by elaborating the voter lists rigorously and by adopting some measures that removes the possibility of somebody who already voted to vote again (by marking definitively the identity or voter cards of those who voted or by establishing the rule that everybody can vote either at a certain polling station depending on his/her address or by mail).
- fraud at the mailing vote. There is a possibility that the vote is expressed by another person than the one the vote should belong to. It can be limited by establishing a rule according to which the voter has to attach to the ballot paper he/she sends to the constituency bureau a declaration signed by him/her.

#### *Frauds produced by political actors or by some other actors involved in managing the election process*

- counting a vote for more times. This is the most usual method of fraud produced during the vote

counting process at polling stations. There is a couple of ways of limiting this method of fraud such as: vote counting in front of as many political party representatives as it's possible, the vote counting watched by domestic and international observers, etc.

- fraud produced during the process of centralizing data coming from the polling stations. When there's no transparency a fraud during the process of gathering results is possible either by modifying numbers or by not introducing some certain data in the system. The most efficient way of limiting this type of fraud consists of assuring a maximum possible transparency so the official vote counting can be doubled by any competitor's or observer's own counting.
- the exclusion from the voter lists. When the presence on the voter lists is compulsory for everybody who wants to vote there might be attempts of excluding some persons from those lists. For instance, a political party that has got few voters among young people might try either to determine delays in the process of registers those persons who become voters by getting the necessary age or not to permit to the students who live in other localities than those where their official addresses are to vote.

### 4. Drawing the constituencies and establishing the number of mandates

Drawing the electoral constituencies might represent a very difficult task because of the possible political implications. In the context of the proportional list voting systems generally the borders of the constituencies can follow the borders of the administrative units (districts, counties, etc.) In those systems based on single member constituency vote, the electoral constituencies are usually much smaller than the administrative units. The term of gerrymander names the process through which the result of the vote is influenced by grouping some geographical areas into single member constituencies so some candidates' chances are maximized.

In order to limit the gerrymandering, there is the possibility to divide the population into single member constituencies either by adopting some general rules that don't favor any political actor in a predictable way or by negotiating on each case. When they are involved in the process of drawing the constituencies, the electoral bodies should take the role of assuring the fairness of the process.

### 5. Political party financing control<sup>15</sup>

The political party financing is an important component of the political system in general and of the election

process in particular. The correct regulation of the political party and election campaign financing is an important instrument of assuring the fairness of the elections. The political party financing has to be transparent and to assure equal chances among competitors by minimizing the role that money can play in the electoral competition.

Beyond the existence of the legal framework, an independent specialized enforcing agency is needed for assuring the transparency and fairness. In many countries the role of the enforcing agency belongs to the electoral authority and in Romania in 2007 the situation became the same<sup>16</sup>.

## 6. Solving litigations by involving the juridical system in decisions<sup>17</sup>

If there is a will to have a real election law it needs that in case of infringements of the law those who notice them can address to the justice. This principle should be applied especially in terms of the most important aspect of any elections – their results. It has also to be applied to the decisions adopted prior to the election day, especially those referring to the right to vote, electoral register and voter lists, the aspects related to the election campaign and the respecting of the rules during the election campaign, the access to mass media and finally to the political party financing.

Solving the complaints and litigations sent either by some political parties either against some political parties has been a very sensitive task from the political point of view, because any decision for sanctioning a political party can be suspected of being influenced by the opponents of that party. In this regard, in order to be able to accomplish such tasks successfully, the electoral bodies have to benefit from a high level of credibility, respect and authority.

Generally, there are two acceptable ways:

- the appeals can be addressed to the ordinary courts, special courts or the Constitutional Court;
- the appeals are received firstly by the election committee. This solution may have the advantage that assures more expertise in judging various complaints taking into account that the courts might not have enough experience in this area because of their occasional activity related to it. However, as a form of juridical supervision or a way of contest the decisions in front of the juridical power should exist as a caution measure.

In some cases it's possible that the final decision body is the Parliament. However the possibility that the Parliament decides on the fairness of the process through which it was elected it's not the best possible solution.

The appeal procedures have to be as short as possible in any case related to the election process. In this regard, two kind of traps have to be avoided:

- the appeal procedures can delay the election process;
- the decisions are adopted after the closing of the election process when they can not produce any effect anymore.

It's necessary that the decisions related to the election results don't take too long time but to have enough time so an appeal against a decision can be initiated. Generally, a period of 3-5 days is enough for judging an election process related case excepting the decision adopted by the Constitutional Court.

The procedure of appeal has to be simple so the voters can use it as well. The formalism has to be eliminated and the possibility of rejecting the complaints because of unacceptability of them has also to be avoided especially when it is about cases that are delicate from the political point of view. Generally, a minimum number of signatures needed when voters initiate a complaint is accepted.

It's also necessary that in case of the procedures of appeal a clear regulation regarding the ways on the case passes from a court to another exist in order to avoid either positive or negative jurisdiction conflicts. Neither the complainers nor the authorities against whom the complaint is initiated should be able to choose the court that will judge the complaint. The risk that the courts of appeal refuses to adopt a decision should be avoided by the clear mention of the responsibilities.

The disputes related to the electoral registers and their updating at the local level have to be judge by the first court at an inferior level. In this way the superior courts would not be crowded by minor causes.

The procedures of appeal have to have a juridical nature so the right of the initiators of the appeals to participate to the audiences is guaranteed. The power of the courts of appeal upon the election process is extremely important. They should have the right to invalidate the elections if there are irregularities that could influence the elections' results.

15 A good practice code for elections accessed at <http://www.coe.int/T/E/Com/Files/Themes/Elections/code.ASP> in 15 Martie 2007

16 Since there is a complex and important domain, political party financing will be the subject of a separate comparative study within the „25+2 Election Models” series.

17 A good practice code for elections accessed at <http://www.coe.int/T/E/Com/Files/Themes/Elections/code.ASP> in 15 Martie 2007

## 7. Voter education programs<sup>18</sup>

The electoral authorities have got also responsibilities in the domain of informing and educating voters.

*Informing the voters* refers to the dissemination to the voters of that information that makes them to participate to the election process being aware. That information refers to the date and time when the elections take place, the type of the elections, the documents needed by the voters when they go to vote, the vote technique. Since all these are basic aspects, they don't need an explanation of the concepts. Since the quantity of such information is relatively small the organizing of the informing activities can be done quite fast.

The organizing of the citizen informing activities depends on the nature of the electoral authority. Usually it is recommended that a person is appointed for being charge of this task and that person has to work together with the staff in charge of the relations with mass media.

*Voter education* has to refer in general to the voters' motivation and their availability to participate to the electoral process. The voter education campaigns contain a more complex message than the informing campaigns and usually refers to the liaison between the human rights and the right to vote, the voters' role and responsibilities, relations between democracy and elections, the secret of vote, why every vote is important, the impact of the elections on the political accountability and legitimacy, the way in which votes are translated into seats in Parliament or other democratic institutions. Since such concepts usually need an explanation and some general aspirations have to be invoked it is recommended that voter education campaigns take place before the election campaign. Voter education campaigns are also very important when the election system is changed. In such cases the differences have to be explained as well as the reasons that led to the change and the possible effects.



# The responsibilities in organizing the voting process

Since the costs of creating electoral bodies that are able to organize the elections by themselves entirely are very high especially in terms of transmitting the materials needed for organizing the voting procedures, the transfer of some operations to the state institutions can not be avoided. This way, the dependency from the state institutions as well as from some business companies becomes an important characteristic of the voting process.

In those countries where there are many agencies involved in organizing the elections the responsibilities and operational dependencies between those agencies have to be clear defined within contract agreements that should include clear provisions regarding the performing standards and those standards have to be carefully monitored and quickly corrected by the central electoral bodies. The time pressure and the fact that the voting day can not be changed once it was established make that the dispute regarding the responsibilities can not last too much without having negative consequences. This way, central electoral bodies have to take into account first the criteria of the efficiency in solving the disputes.

## 1. The territorial dimension of organizing the electoral bodies' activity

In most of the countries the electoral law refers to three levels of organizing the electoral bodies: central, county and local. The absence of an intermediary level between the central and the local ones, especially in the cases of the big countries, may increase the difficulty of solving the logistic issues related to the vote procedures. During the 2003 elections in Serbia, the OSCE observers showed that the organizing system structured only on two levels determined that the election law was not uniformly applied because of the center's low capacity of communicating with all the local units in an efficient way. Obviously, an intermediary level doesn't solve the issue of applying the election law in a uniform way by itself. However, due to the fact that the largest part of the issues related to the interpretation of the law as well as the logistic ones

can be solved by the intermediary level the communication activity of the central level can be much more efficient. In case of Romania, the lack of the county level would place the central electoral bodies in the situation of having to communicate individually with each of more than four thousand localities and that would generate very serious difficulties.

### The delegation of power: central or local control<sup>19</sup>

There are two questions that have to be answered when the management of the elections process is built:

- 
- Who is responsible for the implementation of various activities related to the voting process in various geographical areas?
- Were the body in charge of those aspects is located?

The first aspect has to be regulated by the law regarding the functioning of the electoral bodies. It's preferable that clear rules regarding the activities specific to the three phase of the elections – before the voting day, the voting day and after the closing of the voting – exist. Such rules can be supported by a series of instructions regarding specific situations that might occur, those instructions being based on the experience of other previous situations. Beyond the legal regulations, the organizing of the responsibilities' distribution is a process of institutional learning that is influenced by the local actors.

Usually at the level of every administrative unit such as the counties are, a group in charge of the coordination of the implementation of the activities have to exist. Depending on the particularities of every type of elections or of various geographical areas, the responsibility and the decision can be transferred to an inferior level. On the other hand, depending on the length, the population and the infrastructure, in some cases giving the responsibility to a larger team that functions at a superior level coordinating the elections in more districts might be more efficient. This solution might have the advantage of maintaining of a team having a better expertise and being able to provide

solutions to the technical issues in an efficient way. In such cases the communication is dependent on modern and performing technical instruments.

In order to determine the most suitable level for placing the responsibilities as well as the staff the following aspects have to be taken into consideration:

- *voting is local activity*: placing the management at the local level might facilitate quick solutions to incipient problems, might offer the benefits of knowing the local characteristics and the advantage of an easier distributing of tasks and an easier control. A high level of centralization might lead to an increase of inefficiency by the increase of the complexity of the taking decision system as well as by concentrating the decision power in only few places. A centralized management of the voting coordination operations can function only in the cases of a high level of institutional performing that make the "centre" to function under a high pressure made by the environment. Not only that all the inferior level will try to communicate directly with the central level but the other actors of the election process such as political parties and domestic and international observers will be also in the situation to do the same thing. In such a situation any failure of the central level can become a failure of the whole system.
- *the administrative efficiency depends on the levels where the electoral bodies function*. From this point of view a solution might consist of maintaining some of tasks at the intermediary organizing level. The need of maintaining a larger team that can benefit from better equipment in a more efficient way may justify the maintaining of a higher level of centralization. However, such a situation has to be considered the exception more than the rule.
- *the substantiality of the procedures represent a way of improving the cost efficiency the integrity as well as the quality of the voting operations*. A total decentralization of the voting operations management might lead to insubstantiality in terms of putting into practice formal procedures such as: voting methods, solving incompatibilities, placing the polling stations. In the same time insubstantialities might occur in terms of applying the standards of integrity and that aspect can lead to the increase of the necessity of some formalized rules and of the costs of the citizen informing campaigns as well..

### **The centralization vs. decentralization**

Although in most of the countries there is a centre that coordinates the organizing of the elections, generally the implementation of the mechanisms needed for the organizing of the voting process is done at the local

level. However, the permanent maintaining of a core of professionals at the local level can increase the costs beyond the justification related to the efficiency of a permanent structure. Thus the quality of the preparation operations as well as the cost efficiency can increase through the direct involvement of the local government, obviously under the supervision of the central electoral bodies.

The local authorities can provide expertise especially in domains related to:

- the efficient organizing of the voting process, due to a better knowing of the best places for the polling stations, of the transportation routes, of the possibilities of recruiting temporary personnel as well as of the characteristics of the voters from that specific local area;
- the possibility of involving in technical details related to the transport and keeping of the needed materials (ballot booths, ballot papers, etc.).

The cooperation with the local public administration depends on many aspects. Taking into account that generally there's no any permanent contact with the local structure, without a permanent local staff, the central electoral bodies have to figure out the most efficient ways of creating and maintaining of some communication and cooperation networks.

## **2. The communication structure**

The voting operations take place in a very dynamic environment and are organized under a huge time pressure. It's extremely necessary that the central structures are able to transmit fast and clearly the information to the local and district authorities. The feed back mechanism and the fast communication of the vote results depend also in a crucial way on the communication system that is used.

In countries where the administration is less performing and the institutional culture hasn't been formed yet simple and short communication channels are recommended. Maintaining all the communications from the center to the polling stations by passing them through the intermediary and local levels may decrease unacceptable much the speed of the information transfer in such countries. So, it is recommended that the intermediary levels have more a role of providing supplementary explanations and interpretations than a role of assuring the information "flow" from the central level to the inferior levels.

## **3. The development of a professional staff and its training**

The election process administrators as well as the persons directly working for the organizing of the

voting operations at the polling stations' level need training and guiding for the role they have to achieve. The training has to refer to both concrete actions they have to take together with the employees and to their role within the whole system of the procedures of organizing and managing the elections and it's needed to have into account the following recommendations:

- the Venice Commission's recommends<sup>20</sup> the development of some training program for the persons involved at all levels of responsibilities. Those programs have to target the persons appointed by the political parties as well. The training is as more important as using the new technology needs the access to a set of concepts and technical knowledge that usually are not accessible;
- the members of the electoral bodies have to prove a special professional education and to show compatibility with the correct electoral management principles such as correctness, neutrality, independence in taking decisions, transparency, accessibility to the voters and professionalism;
- using staff borrowed from the public services can offer the advantage of benefiting from a professional staff but might generate a series of problems on long term. Especially when the elections are organized by the government it's possible that the delegating of some staff who doesn't have the vocation of participation will create some problems related to the lack of involvement. Attractive carrier plans for the electoral bodies' personnel support the creation of a professional staff by using the stimulants for a professionalizing in the domain;
- the cyclic character of the activity determines the necessity of a good human resources management for that part of the staff that will be used only during those most difficult periods of the activity;
- the promotion of correct and transparent policies in selecting the personnel even by targeting a gender balance and assuring a safe work environment support the creation of an electoral body as an institution that promotes the equity in the public life;
- the permanent investments in the personal development must use all the existing opportunities including: in-house training courses, using the academic environment, mentor programs, contracting training programs with foreign experts;
- the training of the temporary personnel has to be focused on the management of the technical operations during the organizing elections. The training programs should include: the study of the legislation, case studies, and simulations – all by using special created training tools. Taking into account the short time existing for

training a large number of persons using mobile training teams is recommended.

The costs with the permanent electoral bodies are apparently higher but they are compensated by the increase of the efficiency in spending resources by the fact that:

- a permanent staff can assure a permanent training and organizing work for the persons who are going to be involved in elections facilitating the development of the team spirit;
- the possibility to prepare the elections along an entire electoral cycle facilitate a more rational resource and activity planning unlike it happens when everything have to be done in a short period of time. That can reduce the pressure on the staff and facilitate a better functioning of the control mechanisms. Early planning of the activities may facilitate the obtaining of a feedback that can be incorporated into the future practice in a higher degree;
- testing new systems and procedures that might improve the efficiency and quality of the voting process could contribute to the permanent development.

#### 4. Functions that might be externalized<sup>21</sup>

Developing of some abilities among the staff of the electoral body could bring a series of long term benefits. Thus the decisions regarding the externalization of some functions that are not essential for the organizing of the voting process have to take into consideration the long term effects on the public perception in terms of the integrity of the voting process. The efficiency of any acquisitions has to be judged taking into account the possibility of using the materials that are purchased for the future electoral cycles. There should be also taken into account:

- the possibility of internal development of the externalized capacities;
- the coherency assured through the internal services providing in comparison with the new contracts with new service providers at every elections;
- the ethos that is characteristic to the population in terms of respecting deadlines.

When some of the responsibilities are externalized it must figure out which of the entities could be accomplish various tasks in the most efficient way:

- other governmental agencies
- local governmental structures
- private business sector

20 Recommendations CDL-AD (2006) 018-12 and CDL-AD(2002) 023.

21 Adapted from ACE Encyclopedia <http://aceproject.org/ace-en>



- not-for-profit
- foreign/international organizations

Since in some countries the electoral bodies are considered by the public opinion as being transparent, neutral and professional while most of the state agencies and private companies have got a reputation of being compromised, non-transparent, partisan and even corrupted, the externalization of some services might be dangerous for both the integrity of the elections process and the voters' perception regarding the fairness of the process.

Here are the main types of services that are usually externalized:

- *Safeguarding.* Generally, the safety of the voting procedures is assured by the state agencies. In those countries characterized by a high level of violence the participation of the army to that is recommended. In post-conflict situations the international peace keeping forces are almost always involved in assuring the safety of the election process.
- *Acquisitions.* In order to assure the image of a transparent activity but keeping into account the regulation of the public acquisitions operations in every country, the decisions regarding the services and good selected can be controlled by a body especially in charge of that.
- *Voter informing and education.* The design and producing of the information/education materials as well as the organizing of the media campaigns can be transferred to specialized PR/communication companies.
- *The design of the ballot papers and other materials used during the voting process.* That task could be successfully accomplished by specialists in communication who could use the legal specifications and eventually supplementary mentions made by the electoral bodies.
- *The producing of the electoral materials.* If the producing of the low quantities of materials might be done "in house", for printing the ballot papers printing companies have to be contracted.
- *The selection of the in charge personnel for the polling stations.* Because it needs logistics for the promotion of the "job" and the selection of the candidates the involvement of the local government that has got the advantage of a better knowing of the local specificity might be very useful. In addition a group of experts in human resources could be used for the supervising of the staff selection process.
- *The producing of the materials used in the training of the personnel involved in the election organizing process and conducting the training sessions.* This task can be done by using the facilities of the education system.
- *The management of the payrolls of the staff involved in elections.* Taking into account that hiring specialists in this domain for a short period of time usually leads to an inefficiency of spending of funds it is recommended that the function is transferred to one of the local government departments.
- *The charting of the placing of the polling stations.* Because of the need of a high specialization, generally this function is covered by the territorial statistic bureaus.
- *Organizing the voting procedures for the citizens being abroad.* This function is generally transferred to the staff of the embassies, consulates or the commercial missions. In this case, the success of the process is given by the public perception regarding the neutrality of that staff.
- *Developing and maintaining of the IT system.* Generally it is contracted with specialists working for IT companies.
- *Operating the computer system.* Since the acquisition of the computers needs high costs, generally it is recommended the using of the existing infrastructure of the local government. The using of that infrastructure has to meet the criteria of safety and integrity of the data.
- *Logistics and storage.* As in the case of the computer network the organizing of this activity by the electoral management may raise the costs very much. Thus maintaining a partnership with the local government departments in order to use the existing institutional infrastructure is the most efficient solution. Assuring the safeness of the materials, especially the limitation of the possibilities of stealing of the ballot papers depend highly on the integrity of the state institutions where the activity is transferred.

# Case studies on regulations regarding the electoral bodies

## 1. Austria

In Austria the elections are organized by the Federal Electoral Authority – an independent body formed by 11 members. The Minister of the Interior is the President of the Authority while eight members are proposed by the political parties being represented in the Parliament. The seats are shared depending on the number of parliamentary seats every political party has got. The other two members are representatives of the juridical power. The political parties not having parliamentary representation can send observers to that authority. The Authority is responsible for organizing the European and national elections as well as for organizing opinion surveys. The authority is supported in its activity by the electoral affairs department of the Ministry of the Interior. The fact that the Minister is the Head of the Authority has got the role of making its functioning more efficient by keeping an unique centre of authority.

The rule of functioning provides for a total independency from the Govern. The principles ruling the functioning of the Authority are mentioned within the Federal Constitution as well as in the election law.

At the level of each of the nine district local government a Regional Electoral Authority functions. Either the Prefect of a representative of him is the Head of that Authority. Nine persons appointed on the same principles used in the case of the Federal Authority are also members of the Authority at this level.

The Federal Electoral Authority has got the responsibility of centralizing the vote results (once they are received from the regional authorities) and to distribute the parliamentary seats. In every locality a local electoral authority is also formed on the same principles. Generally, the Mayor is the head of the local authority.

In Austria the votes are counted exclusively by the local electoral authorities. Their members are not paid benefiting from only a per diem.

## 2. France

In France, the parliamentary and presidential elections are organized directly by the Ministry of the Interior as the only official election manager body. The current legislation was adopted in 1962 and modified in 2006 and provides for the creation of a national Commission of supervising the election organizing that has got the right of interfering for enforcing the respecting of all legal regulations. That Commission is formed by five members who are appointed as follows:

- The Vice-president of the Council of State – as the President of the commission
- The President of the Court of Justice
- The President of the Court of Accounts
- Two members of the Council of State, Court of Justice or Court of Accounts appointed by the above mentioned three members.

In case of incompatibility, the three members are replaced by their deputies who are appointed as the Law provides for. The Commission is assisted by four public servants from the following ministries: interior, relation with the territories, post, communications. The Commission is formed ones the decree for initiating the elections is published.

At the local level commissions within the Prefect houses are established. The national Commission may replace the presidents of the local commissions in case some investigations regarding the accomplishment of the specific tasks are initiated.

## 3. United Kingdom

In the United Kingdom the elections are organized by the Govern through the Ministry of the Interior. Unlike as it is in Austria where the Ministry of the Interior is the Head of the central electoral body, in UK the Minister of the Interior appoints a “Chief Electoral Officer” who is a high public servant.

One of the particularities met in UK is the establishment of an Electoral Commission having the exclusive role of supervising the elections without any involvement in

the organizing process. The Commission is formed by independent members without any political affiliation. The main areas of responsibilities of that Commission are as follows: political party registering, political party financing monitoring (especially in terms of the donations), regulating the expenses of the political parties during the election campaign. The commission has also got the role of organizing the referendum and voter education campaigns as well as of providing consultancy to the actors of the election process in terms of legal procedures. After every election the Commission has got the responsibility of releasing a report regarding the respecting of the rules during the elections. During 2003-2006 period, the Commission produced six reports regarding both the organizing of the elections and other aspects of the election process.

Generally, the Commission has been perceived as a centre of expertise in the domain of elections. The Commission has to report to the Parliament. Due to the separation from the direct organizing of the elections and the way of nominating the members, the Commission has got the advantage of benefiting from a high degree of independency and neutrality. The Govern as got the obligation to consult the Commission in case of the modifying the electoral legislation as well as regarding the way of organizing the elections. Although the Commission may submit recommendations about the modifying of the electoral legislation, the responsibility and decision capacity in this domain belong exclusively to the Govern. Following the Commission's suggestions, the Govern has encouraged the local authorities to try to put into practice the new vote technique for the local elections. A series of pilot-studies have the role to find methods of voting that can be successfully put into practice for the national elections. One of the domains of central interest regards the way of organizing the postal vote by assuring a high level of safeness.

The Commission has also got the role of supervising the eventual modification of the single member constituencies.

The capacity of the Commission to influence the election process is mainly based on its informal instruments. From this point of view, it can not be considered a model to be followed by the countries under democratization.

## 4. Latvia

The Central Electoral Commission is a permanent body established in 1992 whose attributions include the preparing and managing the parliamentary elections, the European elections, the local elections as well as the referendum. The functioning of that Commission is regulated by a special law as well as by the law referring to elections. Its main attributions are:

- To assure that the elections are fairly organized and the legislation is coherently and uniformly applied;

- To inform and educate the voters on the voting procedures;
- To adopt decisions as well as the rule of procedures needed for the preparing of the elections and referendum;
- To coordinate the distribution of the resources allocated for the local electoral commissions and to coordinate those commissions' work;
- To provide training programs for the staff involved in various stages of the election process;
- To prepare the proposals regarding the improvement of the electoral legislation as well as the legislation regulating the referendum;
- To check the correctness of the organizing of the elections;
- To process the election and referendum results and to make them public;
- To analyze the complaints and the appeals related to the organizing of the elections and referendum;
- To review and to cancel the local electoral commissions' decision that don't respect the law.

The Central Electoral Commission is formed by nine members and eight of them are appointed by the Parliament while one of them is appointed by the Supreme Court of Justice. Their mandate lasts four years, generally after every general election a new commission being appointed.

A member can be revoked through a procedure initiated by at least ten deputies. The representative of the juridical power can be dismissed only by the Supreme Court of Justice.

## 5. Poland

The Central Electoral Commission is a permanent body formed by nine members who are appointed formally by the President but are selected in fact by the juridical power as follows: three of them by the Constitutional Court, three by the Supreme Court of Justice and three by the Supreme Administrative Court. The President is elected among and by the members. The position of a member in that Commission can be lost by: resignation, decease, catching 70, revoking by the President of the Court that had made the appointment.

For the local commissions, the appointments are made by the Central Electoral Commissions and are formed by judges as well.

The activity within the Commission goes independently from the other attributions achieved by the judges in courts. In practice, the Commission's activity is not permanent.

The attributions related to the elections process are relatively similar to those of the Central Electoral Commission of Latvia.

## Central electoral bodies in EU member countries

Country	Authority	Who appoints the members	Way of forming	Duration of mandate
<b>Austria</b>	Federal Electoral Authority	Ministry of the Interior, political parties and juridical power.	The Minister of the Interior is the President of the Authority while eight members are proposed by the political parties being represented in the Parliament. The seats are shared depending on the number of parliamentary seats every political party has got.	A new Authority is appointed at the beginning of every electoral period.
<b>Belgium</b>	The Ministry of the Interior	The Govern		Legislative mandate
<b>Bulgaria</b>	Central Electoral Commission (24 members)	The Govern and the political parties.	The members are appointed by the President while the Prime Minister signs after the consultations with all parties. The Commission is formed by representatives of the political parties or persons without political affiliation and most of them have to be jurists.	The mandate corresponds to the legislative mandate.
<b>Cyprus</b>	The President of the Electoral Commission (public servant)	The Ministry of the Interior.		It's formed for every election.
<b>Czech Republic</b>	Central Electoral Commission	Ministry of the Interior validates the proposals submitted by the political parties	Every political party or coalition that submits list of candidates for all districts have the right to be represented in the Central Electoral Commission.	The mandate stops when a new Commission is appointed for the next elections.
<b>Denmark</b>	The Ministry of the Interior	The Govern		Legislative mandate
<b>Estonia</b>	National Electoral Committee (formed by 7 members)	The juridical power and a series of central institutions	<p>The Committee members are:</p> <ul style="list-style-type: none"> <li>• A judge of a court of first instance and one of the court of the court of appeal appointed by the President of the Supreme Court;</li> <li>• A counselor of the Minister of Justice appointed by the Minister;</li> <li>• A member of the National Audit Bureau appointed by the General Auditor;</li> <li>• A deputy of the General Prosecutor appointed by him;</li> <li>• A member of the Office of the Parliament appointed by the Chief Chancellor;</li> <li>• A member of the National Office appointed by the General Director</li> </ul>	The members' mandate last four years.

Country	Authority	Who appoints the members	Way of forming	Duration of mandate
<b>Finland</b>	The Ministry of Justice	The Govern		Legislative mandate
<b>France</b>	The Ministry of the Interior	The Govern		Legislative mandate
<b>Germany</b>	Federal Electoral Commission formed by the President and other 9 members	The President and his deputy are appointed by the Federal Minister of the Interior.	Eight out of the nine members are appointed by the Commission's President and are selected from the persons proposed by the political parties.	The duration of the President's mandate is unlimited. The other members' mandate corresponds to the legislative mandate.
<b>Greece</b>	The Ministry of the Interior	The Govern		Legislative mandate
<b>Hungary</b>	National Electoral commission formed by minimum 5 and maximum 9 members.	The Parliament.	The members of the National Electoral Commission are selected by the Parliament out of a list created by the Minister of the Interior based on the political parties' proposal.	The mandate corresponds to the legislative mandate.
<b>Ireland</b>	The Ministry of Environment, Patrimony and Local Government.	The Govern		Legislative mandate
<b>Italy</b>	The National Central Electoral Bureau formed by 5 members.	The Prime Minister		It's formed for every election.
<b>Latvia</b>	The Central Electoral Commission formed by 9 members.	The Parliament and the Juridical power.	The President and other seven members are appointed by the Parliament while a member is appointed by the Supreme Court of Justice.	The mandate corresponds to the legislative mandate.
<b>Lithuania</b>	Central Electoral Commission formed by minimum 12 members	The Parliament, the Barr and the Political Parties	The President is appointed by the Parliament. Three members having university studies are appointed from a list of six proposed by the Barr through a lottery and other three from a list of six proposed by the Ministry of Justice through the same method. Other members are proposed by the political parties that obtained mandate in multi-member constituencies at the last elections. The members promoted by the Ministry of Justice and by the Barr have to represent at least half of the total.	The mandate lasts four years and their appointed is made no later than 100 days and not earlier than 130 days before the election day. After elections, political parties appoint new members according to the results of those elections.



Country	Authority	Who appoints the members	Way of forming	Duration of mandate
<b>Luxembourg</b>	The Ministry of the Interior	The Govern		Legislative mandate
<b>Malta</b>	Electoral Commission formed by minimum 7 members	The President, the Prime Minister and the Leader of the opposition.	The members are appointed by the President following the Prime Minister advice after this one consults the opposition's leader.	The mandate lasts three years.
<b>Netherlands</b>	The Electoral Council formed by 7 members.	The members are appointed by Royal decree upon the Govern proposal.		The mandate lasts four years.
<b>Poland</b>	National Electoral Commission formed by 9 members	The juridical power, the President	<p>The nine members are proposed to the President (who formally appoint them after) as follows:</p> <ul style="list-style-type: none"> <li>• three of them out of the judges of the Constitutional Court (appointed by the President of the Court),</li> <li>• three out of the judges of the Supreme Court of Justice (appointed by the President of the Court)</li> <li>• three out of the judges of the Supreme Administrative Court (appointed by the President of the Court).</li> </ul>	The mandate corresponds to a judge's mandated.
<b>Portugal</b>	The National Electoral Commission formed by 9 members.	He Govern, the juridical power and the Parliament	<p>The President is a judge (appointed by the Superior Council of the Magistrate), five members are appointed by the Republican Assembly (elected on the lists submitted by the five parties that got the highest number of mandates). Three of them are appointed by the Ministry of the Interior, Ministry of Foreign Affairs and Ministry of Communication.</p>	The mandate corresponds to the legislative mandate.
<b>Romania</b>	Central Electoral Bureau formed by 26 members.	The juridical power, the President, the Parliament and the political parties.	Seven of the members are judges at the High Court of Justice (appointed by its President by lottery), three of the are the President and the two Vice-presidents of the Permanent Electoral Authority, 15 are appointed by the political parties and alliances and one of them by the national minorities.	The mandate almost corresponds to the duration of the election period.

Country	Authority	Who appoints the members	Way of forming	Duration of mandate
<b>Slovenia</b>	The State Electoral Committee	The Parliament	The President of the Committee is a judge from the Supreme Court. He plus other two jurists are appointed by the National Assembly. Other three members are appointed upon the proposal of the three parties having the highest number of mandates.	The mandate lasts four years.
<b>Spain</b>	Central Electoral Commission	The juridical power, political organizations having representatives in Parliament	Eight members are appointed by the High Council of Justice out of the judges of the Supreme Court. Five members out of law, political science and sociology professors are appointed by the political organizations having representatives in Parliament.	The mandate corresponds to the legislative mandate.
<b>Slovakia</b>	The Slovak Electoral Commission	The political parties.		It's formed for every election.
<b>Sweden</b>	The Electoral Authority.	The Govern		Legislative mandate
<b>United Kingdom</b>	The Ministry of the Interior appoints a Chief Electoral Officer who is a high public servant	The Govern		Legislative mandate



# Bibliography

Dahl, Robert. *The Polyarchies*. The European Institute, Iași, 2000.

Diamond, Larry, "Advancing Democratic Governance: A Global Perspective on the Status of Democracy and Directions for International Assistance", 2001, <http://www.usaid.gov/fani/cover.htm>

Elklir, Jorfen and Andrew Reynolds, "A Framework for the Systematic Study of Election Quality", *Democratization*, Vol.12, No.2, (April 2005): 147–162.

Huntington, Samuel, *The Third Wave: Democratization in the Twentieth Century*. Norman: University of Oklahoma Press, 1991.

Hartlyn, Jonathan, Jennifer McCoy, and Thomas J. Mustillo, "The 'Quality of Elections' in Contemporary Latin America: Issues in Measurement and Explanation", material presented at the XXIV International Congress of the Latin-American Studies, Dallas, Texas, 2003.

Jean-Pierre Kingsley (Chief Electoral Officer of Canada) Notes for an Appearance Before the First Conference on European Electoral Management Bodies, 2002.

Lopez-Pintor, Rafael, *Electoral Management Bodies as Institutions of Governance*. Bureau for Development Policy United Nations Development Program, New York, 2000.

[http://www.venice.coe.int/docs/2006/CDL-EL\(2006\)002syn-e.asp?PrintVersion=True](http://www.venice.coe.int/docs/2006/CDL-EL(2006)002syn-e.asp?PrintVersion=True)

[http://www.idea.int/elections/eea\\_feature.cfm](http://www.idea.int/elections/eea_feature.cfm)

<http://www.aceproject.org/>

---

The cycle of studies “25+2 Electoral Models” edited by the Resource Center for Democracy of Asociația Pro Democratia that includes information, data and analysis on all aspects related to the electoral process in all 27 countries that are members of the European Union (since it was initiated before January 1, 2007, we choose to keep the title) has the role of filling a gap on the market of specialized studies in Europe but it also represents a theoretic support for the MPs and the specialists involved in the electoral reform process in Romania. Each number of this cycle has been dedicated to one of the main aspects that characterize the electoral process:

1. Electoral systems
2. The actors of the electoral process - those who vote and those who get voted
3. Electoral bodies
4. Election campaign
5. Political party and election campaign financing
6. Voting day - vote counting and establishing results procedures

By the editing of the third issue - Electoral Bodies - we aimed to present the way in which the institutions and authorities involved in the organizing of the electoral process in all 27 EU countries are regulated and work. The present study is divided on the following dimensions of analyzing the electoral bodies:

- the organizing of the electoral institutions and authorities;
- the electoral bodies' relations with the other actors involved in elections;
- responsibilities of the electoral bodies in preparing the electoral process;
- the structure of the responsibilities related to the organizing of the voting process;
- case studies on legal regulations regarding electoral bodies.

In addition to these, the study includes a chapter in which the central electoral bodies of the EU countries are synthetically presented: who appoints the electoral body's members, the way of its constituting and its mandate's duration.

The “25 +2 electoral models” has been edited with the financial support provided by the **OPEN SOCIETY INSTITUTE**.



#### **CReD - APD**

Bd. Mareșal Al. Averescu nr. 17  
Pavilion 7, etaj 3  
Sector 1, București

Tel/fax: (+4) 021 222 82 45 | E-mail: [apd@apd.ro](mailto:apd@apd.ro)  
(+4) 021 222 82 54 | Web: [www.apd.ro](http://www.apd.ro)